



1713

Re: United States Patent Application Publication No. 20020013407

INVENTOR: Pearce

SERIAL NO.: 09/932,393

FILED: August 17, 2001

TITLE: CUSHIONS WITH NON-INTERSECTING COLUMNAR
ELASTOMERIC MEMBERS EXHIBITING COMPRESSION
INSTABILITY

DOCKET: 5050.1 P

Assistant Commissioner for Patents
Washington, DC 20231

Honorable Assistant Commissioner:

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Please consider the following petition.

PETITION
to Amend Publication or to Expunge Material From Publication

It has come to my attention that paragraph 13 of U.S. Patent Application Publication No. 20020013407 contains a statement that could be misinterpreted or cause confusion in that it could be construed to be a comment regarding the validity of patents of another person in contravention of MPEP 608.01(r). The portion of that paragraph which could be interpreted as such reads as follows:

However, some of those later Chen patents appear to be anticipated by U.S. Patent No. 5,994,450, and some of the earlier Chen patents appear to be anticipated by U.S. Patent No. 3,827,999 by inventor Ronald Crossland.

In order to rectify paragraph 13 of U.S. Patent Application Publication No. 20020013407 and to eliminate any misinterpretation, confusion or controversy, I propose that the Office permit either amendment or expungement of the language in question.

PETITION FOR EXPUNGEMENT:

In view of the potential for controversy or interpretation of the sentence quoted above from paragraph 13 of the published patent application, Applicant hereby petitions the Office to expunge that sentence from the published patent application. Marked up and clean copies of the paragraph if such expungement is permitted are attached. The fee for this petition should be charged to deposit account no. 50-0581.

REQUEST FOR ENTRY OF AMENDMENT:

Please amend Paragraph 13 as follows:

[0013] As an introductory matter, the reader may find it helpful to be informed of materials which may be used to fabricate the structures of the invention. Any elastomeric material which tends to compress under a load can be used as a material to make the cushions and cushion elements of the invention. Such materials include natural and synthetic rubbers, foams, thermoplastic elastomers, polyurethane elastomers, silicone elastomers, polyvinyl chloride (PVC) elastomers, olefinic elastomers, polyamide elastomers, and the like. Superior performance has been achieved by the inventor when gelatinous elastomers which are substantially non-flowable at room temperature (below 130 degrees Fahrenheit) are used. Such gels are disclosed in U.S. Patent No. 5,994,450 which is hereby incorporated by reference. Alternative gels, which the inventor considers inferior due to their high tack, excessive oil bleed and low durability, have been patented in the name of John Y. Chen of Applied Elastomerics, Inc. Examples of such gels may be found in U.S. Patent Nos. 6,161,555; 6,148,830; 6,117,176; 6,050,871; 6,033,283; 5,962,572; 5,938,499; 5,884,639; 5,868,597; 5,760,117; 5,655,947; 5,633,286; 5,624,294; 5,508,334; 5,475,890; 5,336,708; 5,334,222; 5,324,222; 5,262,468; 5,260,371; 5,239,723; 5,153,254; 4,618,213; and 4,369,284. [However, some of those later Chen patents appear to be anticipated by U.S. Patent No. 5,994,450, and some of the earlier Chen patents appear to be anticipated by U.S. Patent No. 3,827,999 by inventor Ronald Crossland.] U.S. Pat. No. 5,994,450 is believed to be the first to disclose a styrene ethylene-butylene ethylene-propylene styrene gel, and U.S. Pat. No. 3,827,999 by inventor Ronald Crossland appears to be the first to disclose an SEBS gel. Another gel that is available is called "J-SOFT", a pelleted injection molding material offered by ATP, a division of Newgrange Company in Rhode Island.

REMARKS

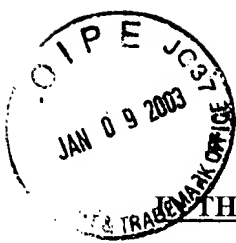
The amendment does not introduce any new matter into the specification.

It is believed that either amendment or expungement of the language in question from the published patent application can eliminate confusion and controversy concerning compliance with MPEP 608.01(r).

Respectfully submitted this 27th day of December, 2002.

A handwritten signature in black ink, appearing to read 'Daniel McCarthy', with a long horizontal line extending to the right.

Daniel McCarthy
Reg. No. 36,600
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, Utah 84145-0898
Tel: (801) 536-6830 or (801) 532-1234
Fax: (801) 536-6111



THE UNITED STATES PATENT AND TRADEMARK OFFICE

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**MARKED UP COPY
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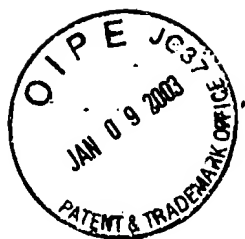
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CERTIFICATE OF MAILING

Honorable Assistant Commissioner:

I hereby certify that the attached Petition is being submitted by first class mail in an envelope addressed to "Assistant Commissioner for Patents, Washington, DC 20231" with sufficient postage prepaid on this 27th day of December, 2002.


Daniel McCarthy
Reg. No. 36,600
Parsons, Behle & Latimer
201 South Main Street, Suite 1800
P.O. Box 45898
Salt Lake City, Utah 84145-0898
Tel: (801) 536-6830 or (801) 532-1234
Fax: (801) 536-6111